IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

MISC. PETITION NO. 2939 OF 1992

Division Bench (Civil)

PETITIONER :- Lakhan Lal S/o Jivrakhan, Labour Camp Jamul, P.O. Jamul Cement Works, Distt. Durg, M.P.

CF0000110976

VERSUS

RESPONDENTS :-

1. The General Manager, A.C.C. Cement Factory, JAMUL, P.O. Jamul Cement Works, JAMUL, Distt. Durg, M.P.

2. B.L.Goel, Contractor, A.C.Cement Factory, Jamul Cement Works, P.O.JAMUL, Distt. Durg, (M.P.).

3. The Controlling Authority and the Asstt. Labour Commissioner, Raipur, ~~fa~~ (M.P.).

4. The Appellate Authority and Deputy Labour Commissioner, Raipur, M.P.

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18-8-92

Filed on ..... by Shri S.S. Rajpoot ..... Advocate

R.L.D.R. 18-8-92

MISCELLANEOUS PETITION UNDER ARTICLE 226/227 CONSTITUTION OF INDIA

(49)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2939 of 1992

Petitioner — Lakhan Lal

Versus

Respondents — The General Manager, A.C.C. Cement Factory, Jamul & others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri H. B. Agarwal, Senior Advocate with Shri Manish Agarwal, Advocate for the petitioner.

Shri N. K. Vyas, Advocate for the respondents No. 1 and 2.

ORDER

(1st December, 2006)

The following order of the Court is passed by Justice **Satish K. Agnihotri**.

1. The petitioner was working in the respondent No.1 factory, allegedly through the respondent No.2. The petitioner filed an application on 24.7.1985 under the Payment of Gratuity Act, 1972 (for short 'the Act, 1972') before the Controlling Authority, under the Act, 1972, Raipur Division, Raipur in Case No. 17/PGA/85. The respondent No.1 raised objection by filing an application on 17.2.1986 that the name of the respondent No.1 be deleted from the array of the parties as the petitioner was employed with the respondent No.2. The Controlling Authority by order dated 28.3.1989 rejected the application of the respondent No.1 after holding that the respondent No.1 was a necessary party.

2. Being aggrieved, the respondent No.1 filed an appeal under Section 7 of the Act, 1972 before the Appellate Authority in Case No. 6/PGA/1989. The appellate authority, after having considered the facts, adjudicated upon the entire issue which was pending consideration before the controlling authority and held that the

(56)

respondent No.1 was not a necessary party as the respondent No.1 was not the employer of the petitioner.

3. The order of the appellate authority is perverse, contrary to the settled position of law, as the interim relief, which amounts to grant of final relief, cannot be granted without proper adjudication of the dispute, which is still pending consideration before the controlling authority. Thus the order dated 17.6.1992 passed by the appellate authority deserves to be set aside and the matter is required to be remitted back to the controlling authority for adjudication on merits.

4. According, the petition is allowed accordingly. The order dated 17.6.1992 passed by the appellate authority under the Payment of Gratuity Act, 1972, passed in Case No. 6/PGA/1989 is set aside and the matter is remitted back to the controlling authority with the direction to decide the case in accordance with law, expeditiously. Keeping in view the fact that the matter has been pending consideration since 1989, the same may be decided within a period of three months from the date of receipt of a copy of this order.

Sd/-
Satish K. Agnihotri
Judge

Thakur